



# FAIJON FIBRE TERMS AND CONDITIONS

## 1. DEFINITIONS

1.1. In these Specific Terms and Conditions, the following words and expressions shall have the following meanings:

"After Hours" shall include weekdays from 5 pm to 8am, weekends and public holidays

"Agreement" shall be referred to this service agreement.

"Application Form" means the form prescribed by FAIJON and used by the Customer to subscribe for the Service.

"Charges" means the charges payable by the Customer to FAIJON in respect of the Service as prescribed by FAIJON from time to time.

"Customer" shall hereon be referred to (you) the subscriber of the Service.

"Service" means the service known as the Internet service provided by FAIJON.

"System" means the computer systems, programming and communication facilities and any other equipment required by FAIJON for the operation of the Service.

"Term" means the Initial Contract Term (as defined in Clause 4.4) and any renewal or amendment thereof.

"FAIJON" shall be referred to as the provider of the Internet service.

"Working Hours" shall be 8am to 5pm on the weekdays not including public holidays.

## 2. GENERAL CONDITIONS

2.1. The Customer shall be bound by and shall fully observe and comply with all the General Terms as well as such other terms and conditions as may be agreed or accepted by the Customer. The rights and protections conferred on FAIJON under these Specific Terms and Conditions shall be additional to the rights and protections conferred on FAIJON under the General Terms and any other terms and conditions agreed or accepted by the Customer.

2.2. The Service provided by FAIJON under these Specific Terms and Conditions may not be re-sold or otherwise re-provided by the Customer to any other person(s) whatsoever.

## 3. EQUIPMENT

3.1. Service must terminate into a FAIJON- approved router on the customer premises equipment (the "CPE").

3.2. A CPE router is required for the exchange of traffic between the FAIJON Network and the Customer. Customers will be solely responsible for all CPE and router provisioning, configuration, maintenance, management, and support.

3.3. Customer will provide the proper environment, electrical and telecommunication connections for the Services and Router, if applicable, as specified by FAIJON and/or the Router manufacturer.

## 4. COMMENCEMENT AND TERM OF SERVICE

4.1. The Service shall commence when FAIJON will notify Customer that the Service is installed or connected, successfully tested, and available for Customer use (the "Commencement Date of Service")

4.2. Billing will begin on the Commencement Date of Service.

4.3. This Agreement shall reflect price reductions or discounts if there are further market rate reductions or discounts during this contractual term.

## 5. SERVICE DEMARCATION

5.1. The point of demarcation for Service is the physical network location to which the Customer provided router is connected or, if Equipment is furnished by FAIJON, the LAN port at which interconnection takes place.

## 6. CUSTOMER RESPONSIBILITY

6.1. It is the Customers responsibility to maintain and manage data traversed through the connection at all times. All management of data or content management is the Customers responsibility and the Customer shall be responsible for all data (including SPAM/Junk Mail or Virus Attacks) traversed through the internet circuit. FAIJON requires the Customer to have updated antivirus software at all times for data security. The provision of this Service is subject to Fair Use Policy. In case where traffic causes excessive resource utilization on FAIJON's interfacing equipment or network that results in degraded performance for other FAIJON customers, FAIJON reserves the right to immediately downgrade or suspend service without prior notice.

6.2. The Customer shall provide FAIJON with access to all wiring closets, equipment rooms and Customer's premises to facilitate Service installation, testing and maintenance requirements.

6.3. Customer is responsible for the security of account passwords. Availability and access to Customer's accounts by others is strictly prohibited. The customer may not attempt to find or in any manner search out or aid and abet in an attempt by any other person to find the password of another user.

6.4. The Customer recognizes and acknowledges that it is illegal for any internet service provider, operator or any individual to use the internet access circuit for reselling voice services. Any reselling of voice services over Internet Protocol (IP) is deemed illegal, which will result in FAIJON terminating the services without prior notice. Video Conferencing services such as Skype and net meeting are excluded.

6.5. The Customer is responsible for any FAIJON System placed within the boundary of the customer's Premises and for its proper use; if any part of FAIJON's System is lost, destroyed or damaged (except for fair wear and tear) the Customer must pay FAIJON for its replacement and/or repair. The Customer must not interfere with the System nor permit anybody else (except someone authorized by FAIJON) to do so.

## 7. TERMINATION OF AGREEMENT

7.1. The customer may terminate this Agreement at any time by giving 30 days written notice. The 30 days' notice shall commence on the next billing date. If Customer shall pay FAIJON one month's subscription fee in lieu of notice. The Customer will remain liable for any charges incurred up to the effective date of termination. No refund of fees, including monthly access fee, will be granted.

7.2. FAIJON reserves the right to amend the terms and conditions ("sections 1 to 16") set herein within a thirty-day notice (30 days). Amended terms and conditions shall be addendum to any valid Agreement in force at that time. Price changes shall be provided in writing but the Customer may terminate this Agreement within 30 days without a penalty payment if no mutual Agreement is reached on pricing with FAIJON. The Customer shall be liable for any charges up to the date of termination of service by either party.

7.3. FAIJON reserves the right to terminate all or partial internet service if there is a dispute between the Customer and the FAIJON or if there is a breach of any FAIJON terms and conditions.

7.4. The Customer must pay all prior charges on other services if in dispute. Failure to do this may result in partial suspension or disconnection of the service.

## 8. CHARGES, CREDIT STATUS AND BILLING PROCEDURES

8.1. The Customer will be billed monthly and the bill will include a charge for the Monthly Access Fee (fixed monthly rental).

## 9. IP ADDRESS AND DOMAIN NAME

9.1. Any IP Address that is assigned to the Customer for the Customer's use by FAIJON under the Agreement is not owned by the Customer. Such IP Address is allocated to FAIJON by regional registries so that FAIJON can assign the same to its customers for their use only and the customers shall have no other rights or any title thereto. Any Domain Name (where applicable) that is assigned to the Customer for the Customer's use by FAIJON under the Agreement is not owned by the Customer and may or may not be owned by FAIJON and the Customer shall have no claim whatsoever against FAIJON if FAIJON is of the opinion that such IP Address and/or Domain Name belongs to a third party or infringes a third party's rights or is in contravention of any applicable law

9.2. The Customer agrees that FAIJON shall have the right in its sole discretion to suspend or withdraw from any further use of any such IP Address and/or (where applicable) Domain Name or take necessary actions at any time with or without notice to the Customer, and without liability or compensation to the Customer or any person or entity whatsoever and the Customer shall have no claim whatsoever against FAIJON if FAIJON is of the opinion that such IP Address and/or Domain Name belongs to a third party or infringes a third party's rights or is in contravention of any applicable law.

9.3. Upon withdrawal or suspension of any use of IP Address and/or Domain Name, or termination of the Service or the Agreement the Customer shall: -

- 9.3.1. Stop using such IP Address and/or Domain Name immediately;
- 9.3.2. Remove such IP Address set up from the relevant CPE.
- 9.3.3. Withdraw from any further use of such IP Address and/or (where applicable) Domain Name whatsoever.

9.4. If the Customer uses or continues using any such IP Address and/or Domain Name after FAIJON has exercised its right to suspend or withdraw such IP Address and/or (where applicable) Domain Name or upon termination of the Service or the Agreement, the Customer shall keep FAIJON fully indemnified as to any costs, actions, claims, proceedings, demands, damages, liabilities, losses and expenses that may be caused to or suffered by FAIJON or its Affiliates as a result thereof.

## 10. MAINTENANCE AND TESTING

10.1. FAIJON will issue a commissioning report to the customer which shall provide the technical status of the link at the time of delivery

10.2. The parties will cooperate with each other in performing joint tests to the extent reasonably necessary to establish the Service or to detect, isolate and remedy Service-related problems. Joint tests will be at no charge to the other party, if such tests are conducted by remote testing systems. If an on-site technician is necessary and the trouble is located on Customer's side of the interface, actual material and labor prices at FAIJON's standard rates will apply.

10.3. FAIJON will perform routine maintenance as is customary to reasonably maintain the Service, Transport, and Router, if applicable, as described herein. All such maintenance will be performed at no additional charge to Customer if the fault which gives rise to the maintenance request is determined by FAIJON to reside on the FAIJON side of the point of demarcation between FAIJON and Customer or in the Router.

10.4. Customer understands and agrees that temporary interruptions may occur as normal and reasonable events in the provision of the Service. All Systems need routine maintenance from time to time. FAIJON will endeavor to provide Customer between one (1) and five (5) business days advance notice, or if not possible, reasonable advanced notice if FAIJON believes that such routine scheduled maintenance will affect Customer's Service. In the event of a network/systems emergency requiring immediate attention, FAIJON reserves the right to perform emergency maintenance without notice or upon short notice, and shall use all reasonable efforts to minimize the effect of such work on Customer's Service.

10.5. Customer acknowledges and agrees that FAIJON has no control over third party networks the Customer may access in the use of the Service, and therefore, delays and disruption of other network transmissions are completely beyond the control of FAIJON. FAIJON will not be responsible for Customer's inability to access the internet due to circumstances not in the direct control of FAIJON, such as individual Internet user's own equipment capabilities and/or limitations, Internet limitations and/or browser software limitations.



## 11. FAULT REPAIR

11.1. The Customer must report a fault in Service by calling FAIJON's Call Center on 0777 222 000 or e-mail [support@faijonfibre.co.ke](mailto:support@faijonfibre.co.ke) or such other number FAIJON may have from time to time provide to the Customer. The Customer will at the time of reporting, provide FAIJON with a Contact Telephone Number to enable FAIJON to advice on the progress being made to clear the fault.

11.2. If the Customer reports a fault in Service, FAIJON will respond by carrying out one or more of the following actions:

- 11.2.1. Providing advice by telephone, including advice, where appropriate, as to tests and checks to be carried out by the Customer;
- 11.2.2. Where possible, carrying out diagnostic checks from FAIJON's premises; or
- 11.2.3. Visiting the Customer's Premises only if FAIJON's action under clause 11.2.1 and 11.2.2 does not result in the fault being diagnosed or cleared and where such a visit is considered necessary by FAIJON.

11.3. FAIJON will take all proper steps without undue delay to correct the fault.

## 12. SUPPORT

Working Hours	After Hours/Public Holidays
Response Time	0 – 2 Hours
Restoration Time	0 – 4 Hours

12.1. Response time refers to time for FAIJON to acknowledge receipt of the complaint and the fault to be assigned to an engineer. This could be in the form of a call, text message or email back to the Customer.

12.2. Restoration time is the time to restore the service/s to normal operation.

12.3. On-site refers time taken in cases where site visit is required to isolate the fault.

12.4. Additional charges apply for after-hours restoration.

12.5. The above metrics are on a best-effort basis and assumes normal business operating conditions, meaning FAIJON shall not be liable for any breach of the above metrics caused by act of God, insurrection or civil disorder, war or military operations, national or local emergency, acts or omissions of government, or any other competent local authority, compliance with any statutory obligation, industrial disputes of any kind (whether or not involving either FAIJON or the Customer's employees), fire, lightning, explosion, flood, weather of exceptional severity, acts or omissions of persons for whom either party is not responsible or any other cause whether similar or dissimilar outside its reasonable control and any such event or circumstance. For outages in such situations, FAIJON will make all reasonable efforts to restore the services as soon as it practically can.

12.6. FAIJON shall not be liable for any loss of business or any other loss whatsoever in events when FAIJON is not able meet the timelines above.

## 13. USE AND LIMITATIONS

13.1. FAIJON may:

- 13.1.1. Reject or refuse to perform any Services that are not in compliance with its applicable specifications and standards, laws and regulations and/or public interest standards as determined by FAIJON; and
- 13.1.2. From time to time and without notice, make changes in Services that in its sole judgment will best serve FAIJON's customers. FAIJON's partial rejection or refusal of any portion of Services will not release Customer from its obligations with respect to the remaining Services being performed.

13.2. Customer agrees to comply with the FAIJON's Acceptable Use Policy (located at [www.faijonfibre.co.ke](http://www.faijonfibre.co.ke)). Violation of any such rules, regulations and policies, or any attempt to break security or to access an account which does not belong to Customer, shall be considered a material breach of contract, and FAIJON may terminate this Agreement without liability or may suspend or terminate Service to Customer, or suspend or terminate any user ID, electronic mail address, Universal Resource Locator or domain name used by Customer. Upon such termination by FAIJON, Customer shall be liable for any applicable charges, including early termination charges as set forth in Clause 5 of this Agreement. If Customer's Service is suspended pursuant to this Clause, Customer will still be responsible for charges for the Service incurred during the Period of suspension.

13.3. Nothing contained in this Agreement may be construed to convey to Customer any interest, title, or license in the user ID, electronic mail address or Universal Resource Locator used by Customer in connection with the Service.

13.4. Customer acknowledges and agrees that FAIJON has the right to enforce its policies and guidelines pertaining to Customer's use of the Service and may be required to take immediate action to protect the integrity, quality, reputation and/or availability of the Service. For violations of policies and/or guidelines that FAIJON believes, in its sole discretion do not warrant immediate suspension or termination of Customer's Service, FAIJON shall make a reasonable effort to contact Customer in an attempt to remedy the situation prior to suspension or termination of Service.

## 14. LIMITATION OF LIABILITY

14.1. The Customer agrees to indemnify and hold FAIJON harmless from any claims resulting from the use of the Service. FAIJON shall not be liable for any indirect, incidental, special, punitive or consequential damages of any kind that may result from the Customers' use of the Service including, but not limited to, any such damages for loss of data or loss of profits resulting from delays, non-deliveries or service interruptions.

## 15. CONFIDENTIALITY

15.1. This application form is to be treated as confidential and should not be changed or distributed to any third party outside your organization.

## 16. GOVERNING LAWS AND JURISDICTION